

Revising the criminal trespass statutes

HB 1092 by Hilderbran (Wentworth)/SB 182 by Wentworth (Hilderbran)

HB 1129 by Macias (Wentworth)/SB 1097 by Whitmire (Noriega)

DIGEST: HB 1092 and SB 182 would have amended the Penal Code, sec. 30.05 to make trespassing in a recreational vehicle (RV) park a class B misdemeanor. HB 1092 also would have added Penal Code, sec. 30.07 to make trespassing on the docking place of a watercraft a class B misdemeanor.

HB 1129 and SB 1097 would have reduced the penalty for criminal trespass from a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to a class C misdemeanor (maximum fine of \$500). A subsequent offense would have been a class B misdemeanor if the prosecution showed during the trial that the person had been convicted of the offense previously.

GOVERNOR'S REASON FOR VETO:

“HB 1092, HB 1129, SB 1097 and SB 182 all seek to amend the offense of criminal trespass by creating certain places that are subject to criminal trespass. Current statute covers the places identified in these bills, which renders this legislation redundant. If there are problems, the State of Texas should address criminal trespass issues in a comprehensive manner that makes the system consistent for enforcement and punishment.”

RESPONSE:

Rep. Nathan Macias, the author of HB 1129, said: “I am very disappointed that the governor decided to veto this legislation. The legislation was aimed at the severity and cost of the penalty, not just the specific location given in the reason for the veto. My intention was to better match the penalty to the crime, and to keep our limited law enforcement resources out in the community where they are most effective.”

Rep. Harvey Hilderbran, the author of HB 1092 and the House sponsor of SB 182, said: “We filed this legislation to address concerns brought to our attention by the Texas Association of Campground Owners. According to public testimony during the hearing process, a clarification of current trespassing law is needed to help law enforcement better enforce a problem that RV park owners statewide have been experiencing for some time. The testimony stated that current laws are unclear in regards to responding to trespassing violations reported by RV park owners and effectively addressing these situations as they occur around the state. This is due to the RV parks being perceived as something other than a service establishment and, therefore, not afforded the rights of most business owners regarding trespass violations.

“Gov. Perry felt that current law covers the provisions within this legislation, and we respect his decision on that. We will continue to work with the Texas Association of Campground Owners to make sure that current law addresses their concerns.”

Rep. Hilderbran also cited the following statement from the Texas Association of Campground Owners (TACO): “TACO is disappointed with the governor’s recent veto of two important bills to the RV campground industry.

“The bill addressing criminal trespassing on RV parks was essential to local law enforcement, justices of the peace (JPs), local district attorneys, and RV park owners. More than anything, the bill provided the clarification needed and requested by local law enforcement and JPs to help them better enforce a problem that RV park owners statewide have been experiencing for some time.

“The governor’s veto message stated that the current statute ‘covers the places identified in these bills,’ yet the bill was in response to local law enforcement and JPs that do not believe the law is clear in regards to responding to RV park owners and how local law enforcement can effectively address these situations as they occur around the state. This is due to the RV parks being perceived as something other than a service establishment and, therefore, not afforded the rights of most business owners regarding trespass violations.

“It is regrettable that this veto negated the work of many well intentioned parties to clarify the law. TACO will work with the respective Senate and House authors throughout the interim to study this issue again and seek a solution to this ongoing problem.

“TACO is very involved in the tourism industry and the development of new commerce within Texas. In fact, it was one of the first associations to support Gov. Perry’s Texas One Project because it believes in new business coming to Texas. The governor’s veto was an unfortunate set back as to how RV parks operate day to day.”

Sen. Jeff Wentworth, the author of SB 182 and the Senate sponsor of HB 1092 and HB 1129, said: “SB 182, HB 1092, and HB 1129 were bills to address specific needs of law enforcement to be able offer adequate protection for the citizens of Texas.

“SB 182, and its companion bill HB 1092, were filed to address a problem that owners and operators of recreational vehicle parks face when trying to remove individuals that are on or in that property without the consent of the owner.

“Peace officers and prosecutors had suggested the legislation because, as the statutes are currently written, it is not clear when or if an offense occurs when an individual is on the property of a recreational vehicle park without consent.

“Although filed as companions, the two bills differed as finally passed because HB 1092 was amended to add a provision to the Penal Code to create the offense of ‘Trespass on Docking Place’ as a class B misdemeanor.

“SB 182 and HB 1092 would have clarified that an offense occurs if a person enters or remains on the property of a recreational vehicle park without effective consent.

“HB 1129 was intended to address a problem of the inefficient use of the arresting officer’s time that occurs when a person is arrested for residential trespass. Although it is a non-violent crime, trespass on a person’s residential property may be made to seem more serious if multiple violations are occurring simultaneously.

“Under current law, residential trespass is a class B misdemeanor, and violators must be transported to jail once an arrest is made. The arresting officer must then spend hours booking the suspect into jail, thereby making the officer unavailable to make other arrests for the same or other offenses.

“In the city of New Braunfels, in my Senate district, persons floating the river frequently exit the river through residential property without permission. At times, the number of violators makes it impractical to enforce the residential trespass statute as it is currently written.

“HB 1129 would have classified residential trespass as a class C misdemeanor, allowing law enforcement officers to cite offenders rather than arrest them and transport them to jail.

“To say, as the governor did in his veto message of these bills, that these bills are redundant because current law already covers these places is – how can I say this politely – a statement not based in fact.

“We have better things to do in a regular session than pass redundant bills.

“Each of these bills was brought to the legislature because a problem exists, and we were asked to fix it. We drafted legislation, held hearings where Texans with some knowledge of the situation testified under oath, and both houses of the legislature addressed the concerns with a solution in each case.

“Subsequent to our fixing the problems brought to us by our constituents, the governor ‘un-fixed’ both problems with his veto. Thanks a lot, governor.”

Sen. John Whitmire, the author of SB 1097, had no comment on the veto.

NOTES:

HB 1092 and SB 182 passed the House on the Local, Consent, and Resolutions Calendar and were not analyzed in a Daily Floor Report.

HB 1129 was analyzed in the April 10 *Daily Floor Report*, and SB 1097 was analyzed in the May 15 *Daily Floor Report*.